

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JANA LYNN BUSBY,

Plaintiff,

v.

UNITED STATES SMALL BUSINESS  
ADMINISTRATION, JOVITA  
CARRANZA ADMINISTRATOR,

Defendant.

No. 2:20-cv-00898-TLN-KJN PS

ORDER GRANTING IFP REQUEST AND  
DIRECTING SERVICE

(ECF No. 2)

Plaintiff, who proceeds in this action without counsel, has requested leave to proceed in forma pauperis pursuant to 28 U.S.C. § 1915. (ECF No. 2.)<sup>1</sup> Plaintiff's application in support of her request to proceed in forma pauperis makes the showing required by 28 U.S.C. § 1915. Accordingly, the court grants plaintiff's request to proceed in forma pauperis.

The determination that a plaintiff may proceed in forma pauperis does not complete the required inquiry. Pursuant to 28 U.S.C. § 1915, the court is directed to dismiss the case at any time if it determines that the allegation of poverty is untrue, or if the action is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against an immune defendant.

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<sup>1</sup> This case proceeds before the undersigned pursuant to E.D. Cal. L.R. 302(c)(21) and 28 U.S.C. § 636(b)(1).

1 In this case, plaintiff alleges that she was discriminated against on the basis of her  
2 disability and defendant denied her reasonable accommodations. (See generally ECF No. 1.)  
3 Plaintiff alleges she was otherwise qualified for the position for which she applied, and defendant  
4 failed to accommodate her disability by purchasing software that is readily accessible. (Id.)

5 Based on the limited record before the court, the court cannot conclude that plaintiff's  
6 action is frivolous, that the complaint fails to state a claim upon which relief can be granted, or  
7 that plaintiff seeks monetary relief from an immune defendant. The court reserves decision as to  
8 plaintiff's claims until the record is sufficiently developed, and this order does not preclude  
9 defendant from challenging plaintiff's complaint through a timely motion pursuant to Federal  
10 Rule of Civil Procedure 12 or other appropriate method of challenging plaintiff's pleading.  
11 Accordingly, the court orders service of the complaint on defendant.

12 For the foregoing reasons, IT IS HEREBY ORDERED that:

- 13 1. Plaintiff's motion to proceed in forma pauperis (ECF No. 2) is GRANTED;
- 14 2. Service of the complaint is appropriate for defendant U.S. Small Business  
15 Administration, Jovita Carranza, Administrator;
- 16 3. The Clerk of Court is directed to issue forthwith all process pursuant to Federal  
17 Rule of Civil Procedure 4;
- 18 4. The Clerk of Court shall send plaintiff one USM-285 form, one summons, this  
19 court's scheduling order, and the forms providing notice of the magistrate judge's  
20 availability to exercise jurisdiction for all purposes.
- 21 5. Plaintiff is advised that to effectuate service, the U.S. Marshal will require:
  - 22 a. One completed summons;
  - 23 b. One completed USM-285 form for each defendant to be served;
  - 24 c. A copy of the complaint for each defendant to be served, with an extra copy  
25 for the U.S. Marshal; and
  - 26 d. A copy of this court's scheduling order and related documents for each  
27 defendant to be served.
- 28 6. Plaintiff shall supply the U.S. Marshal, within 30 days from the date this order is

1 filed, with all information needed by the U.S. Marshal to effectuate service of  
2 process, and shall, within 10 days thereafter, file a statement with the court that  
3 such documents have been submitted to the U.S. Marshal;

4 7. The U.S. Marshal shall serve process, with copies of this court's scheduling order  
5 and related documents, within 90 days of receipt of the required information from  
6 plaintiff, without prepayment of costs;


7 8. If defendant waives service, the defendant is required to return the signed waiver  
8 to the U.S. Marshal. The filing of an answer or a responsive motion does not  
9 relieve defendant of this requirement, and the failure to return the signed waiver  
10 may subject defendant to an order to pay the costs of service by the U.S. Marshal;  
11 and

12 9. Failure to comply with this order may result in any appropriate sanctions,  
13 including monetary sanctions and/or dismissal of the action pursuant to Federal  
14 Rule of Civil Procedure 41(b).

15 IT IS SO ORDERED.

16 Dated: July 6, 2020

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18 KENDALL J. NEWMAN  
19 UNITED STATES MAGISTRATE JUDGE  
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